

Agenda

Item #3



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

January 16, 2008

By Regular and Certified Mail

David Hughes
34 Howe Street
Lewiston, ME 04240

Dear Mr. Hughes:

This is to inform you that the Ethics Commission staff has scheduled your 2007 special election campaign for consideration by the Commission at its next meeting on January 25, 2008. The staff will be requesting authorization to investigate whether all funds received by you were spent for campaign-related purposes. As a Maine Clean Election Act (MCEA) candidate, you were required to file a post-election report by December 18, 2007 disclosing how you spent the MCEA funds paid to you and to return any unspent funds to the Commission. I have attached my January 2 letter explaining these obligations.

You have not responded to eight communications from the Commission staff:

- a November 13, 2007 letter reminding you that December 18 would be the deadline to file your post-election report and to return all unspent funds;
- a telephone call to you on December 18 by Commission Assistant Cyndi Phillips reminding you to file the report by 5:00 p.m.;
- a voicemail message on December 21 from Candidate Registrar Sandy Thompson informing you that your report was two days late;
- a certified letter from Ms. Thompson dated December 28, 2007 warning you of civil penalties for late-filing (you signed the postal receipt for this letter);
- a January 2, 2008 letter from me requesting that you file the report and return all unspent Maine Clean Election Act funds;
- a voicemail message from me on January 7, 2008 summarizing the January 2 letter and requesting that you return my call;
- a January 14, 2008 voicemail from me requesting the report and the payment of unspent funds; and
- my January 14, 2008 e-mail with the January 2 letter attached.

Because you have not responded to these attempts to reach you, the Commission staff increasingly believes it must investigate whether all funds you received were spent on campaign-related purposes.

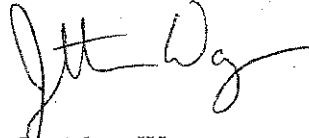
OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

January 16, 2008

The staff of the Commission will place this matter on the agenda of the next Commission meeting on January 25, 2008. You are welcome to attend that meeting to respond to the staff's concern. We urge you to file the report, return unspent campaign funds, and provide the bank records as requested in the January 2, 2008 letter.

If you have any questions, please contact me at 287-4179.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Wayne", written over a horizontal line.

Jonathan Wayne
Executive Director



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

January 2, 2008

David Hughes
34 Howe Street
Lewiston, ME 04240

Dear Mr. Hughes:

This letter requests that you fulfill certain legal responsibilities as a Maine Clean Election Act (MCEA) candidate in the 2007 special election. The staff of the Commission has made a number of communications notifying you that you were required to file a financial report of your campaign expenditures and return any unspent public funds by Tuesday, December 18, 2007.

This is to request that – as soon as possible – you:

- (1) file your post-election campaign finance report;
- (2) return all unspent Maine Clean Election Act funds; and
- (3) submit bank records showing all of your campaign expenditures.

If you cannot take these actions by Wednesday, January 16, please telephone me at 287-4179 to discuss an alternative deadline. Please be aware that the Election Law requires the Commission to assess a penalty for late campaign finance reports that increases daily, so please file the report as soon as possible.

With regard to reporting expenditures, please remember that if any consultant purchased goods or services on your behalf, you are required to report the date, amount, and payee of each purchase as if you made them directly. (Chapter 1, §7(1) of Commission Rules, attached)

Because of your lateness in filing a post-election campaign finance report and in returning unspent public funds, the Commission staff requests that you submit your campaign bank records to the Commission so that the staff can verify that your reported expenditures are accurate and that all MCEA funds were used strictly for campaign purposes. You were required to keep bank records under 21-A M.R.S.A. §1125(12-A)(A) (attached).

Please telephone me at 287-4179 if you have any questions about this request.

Sincerely,

Jonathan Wayne
Executive Director

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- C. All contributions made to a candidate from the day after the primary election through the date of the general election for which the candidate seeks office are deemed to be made in the general election.
- D. Notwithstanding division (e) below, all contributions made after the general election to a general election candidate for the purpose of reducing debts and liabilities associated with the candidate's candidacy are deemed to be made in the general election.
- E. All contributions made after the day of the general election to a candidate who has liquidated all debts and liabilities associated with that election are deemed to be made in support of the candidate's candidacy for a subsequent election.
- F. Subparagraphs A through E above shall apply to any write-in candidate who has qualified under 21-A M.R.S.A. §723, or who has received contributions or made expenditures with the intent of qualifying as a candidate.

SECTION 7. EXPENDITURES

1. **Expenditures by Consultants, Employees, and Other Agents of a Political Campaign.** Each expenditure made on behalf of a candidate, political committee, or political action committee by any person, agency, firm, organization, etc., employed or retained for the purpose of organizing, directing, managing or assisting the candidate, the candidate's committee, or the political action committee must be reported separately by the candidate or committee as if made or incurred by the candidate or committee directly. The report must include the name of the third party vendor or payee to whom the expenditure was made, the date of the expenditure, and the purpose and amount of the expenditure. It is not sufficient to report only the total retainer or fee paid to the person, agency, firm, organization, etc., if that retainer or fee was used to pay third party vendors or payees for campaign-related goods and services.
2. **Expenditures by Political Action Committees.** In addition to the requirements set forth in 21-A M.R.S.A. §1060(4), the reports must contain the purpose of each expenditure and the name of each payee and creditor.
3. **Timing of Reporting Expenditures**
 - A. Placing an order with a vendor for a good or service; signing a contract for a good or service; the delivery of a good or the performance of a service by a vendor; or a promise or an agreement (including an implied one) that a payment will be made constitutes an expenditure, regardless whether any payment has been made for the good or service.
 - B. Expenditures must be reported at the earliest of the following events:
 - (1) The placement of an order for a good or service;
 - (2) The signing of a contract for a good or service;

12-A. Required records. The treasurer shall obtain and keep:

The treasurer shall preserve the records for 2 years following the candidate's final campaign finance report for the election cycle. The candidate and treasurer shall submit photocopies of the records to the commission upon its request.

A. Bank or other account statements for the campaign account covering the duration of the campaign; [2005, c. 542, §5 (NEW).]

B. A vendor invoice stating the particular goods or services purchased for every expenditure of \$50 or more; and [2005, c. 542, §5 (NEW).]

C. A record proving that a vendor received payment for every expenditure of \$50 or more in the form of a cancelled check, cash receipt from the vendor or bank or credit card statement identifying the vendor as the payee. [2007, c. 443, Pt. B, §6 (AMD).]

[2007, c. 443, Pt. B, §6 (AMD).]

12-B. Audit requirements for candidates for Governor. The commission shall audit the campaigns of candidates for Governor who receive funds under this chapter to verify compliance with election and campaign laws and rules. Within one month of declaring an intention to qualify for public financing, a candidate for Governor, the campaign's treasurer and any other relevant campaign staff shall meet with the staff of the commission to discuss audit standards, expenditure guidelines and record-keeping requirements.

[2007, c. 443, Pt. B, §6 (NEW).]

13. Distributions not to exceed amount in fund. The commission may not distribute revenues to certified candidates in excess of the total amount of money deposited in the fund as set forth in section 1124. Notwithstanding any other provisions of this chapter, if the commission determines that the revenues in the fund are insufficient to meet distributions under subsections 8 or 9, the commission may permit certified candidates to accept and spend contributions, reduced by any seed money contributions, aggregating no more than \$500 per donor per election for gubernatorial candidates and \$250 per donor per election for State Senate and State House candidates, up to the applicable amounts set forth in subsections 8 and 9 according to rules adopted by the commission.

[1995, c. 1, §17 (NEW).]

14. Appeals. A candidate who has been denied certification as a Maine Clean Election Act candidate, the opponent of a candidate who has been granted certification as a Maine Clean Election Act candidate or other interested persons may challenge a certification decision by the commission or its executive director as follows.

A. A challenger may appeal to the full commission within 7 days of the certification decision. The appeal must be in writing and must set forth the reasons for the appeal. [2005, c. 301, §32 (AMD).]

B. Within 5 days after an appeal is properly made and after notice is given to the challenger and any opponent, the commission shall hold a hearing, except that the commission may extend this period upon agreement of the challenger and the candidate whose certification is the subject of the appeal, or in response to the request of either party upon a showing of good cause. The appellant has the burden of proving that the certification decision was in error as a matter of law or was based on factual error. The commission must rule on the appeal within 5 business days after the completion of the hearing. [2007, c. 443, Pt. B, §6 (AMD).]

C. A challenger may appeal the decision of the commission in paragraph B by commencing an action in Superior Court within 5 days of the date of the commission's decision. The action must be conducted in accordance with Rule 80C of the Maine Rules of Civil Procedure, except that the court shall issue its written decision within 20 days of the date of the commission's decision. Any aggrieved party may appeal the decision of the Superior Court by filing a notice of appeal within 3 days of that decision. The record on appeal must be transmitted to the Law Court within 3 days after the notice of appeal is filed. After filing the notice of appeal, the parties have 4 days to file briefs and appendices with the clerk of the

Wayne, Jonathan

From: Wayne, Jonathan
Sent: Monday, January 14, 2008 10:56 AM
To: 'newshues@yahoo.com'
Cc: Thompson, Sandy
Subject: Filing Report and Returning Unspent Campaign Funds

Attachments: 1.2.08 Letter to David Hughes.pdf

I have attached a letter dated January 2, 2008 I sent to you almost two weeks ago requesting that you return unspent campaign funds and file a campaign finance report disclosing how you spent Maine Clean Election Act funds you have received. We have not received a response to this letter or a number of communications directed toward you.

Please telephone me at 287-4179, and take the other actions requested in the letter. If I do not hear back from you shortly, I will schedule this matter for the public agenda of the next Commission meeting. Thank you.



1.2.08 Letter to
David Hughes....



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: David Hughes Candidate File
From: Jonathan Wayne
Date: January 14, 2008, 9:50 a.m.
Re: Voicemail message for David Hughes

I telephoned David Hughes just now at 740-0951. He didn't answer and I left a voicemail message. The message explained that he had not responded to a couple of letters and a few voicemail messages we had left for him. The message requested that he telephone me at 287-4179, and file the required report of how he spent his MCEA funds, and to return any unspent funds.

I explained that the Commission was meeting soon, and that if I did not hear back from him today or tomorrow, I would put this matter on the public agenda of the next Commission meeting.

Name: Hughes, David
District #: 72 SPECIAL ELECTION

Home Phone: 740-0951
Cell Phone: same
Work: same
newshues@yahoo.com
Fax#:

Vendor Form -

If no, 2007 Vendor Form Received: yes no

Notes

Called 12/18/07 Reminder 42 DAY Report is due
12/21/07 - left message on phone that report
2 days late; asked to call me if
had any problems ST.

~~1~~ 1/7/08 - left voicemail message explaining
1/2/08 letter and requesting a call back ^{SW}
1/14/08 - left voicemail explaining need for
report, duty to repay public funds
and 1/25/08 agenda.



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
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135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

December 28, 2007

Mr. David Hughes
34 Howe Street
Lewiston, ME 04240

BY REGULAR AND CERTIFIED MAIL

Re: Delinquent Campaign Finance Report – Due December 18, 2007 by 11:59 p.m.

Dear Mr. Hughes:

Our records show that you have not filed your 42-Day Post-Election Report. State law [21-A M.R.S.A. § 1020-A] requires that a penalty be assessed for late reports based on the amount of financial activity conducted during the filing period, on the number of calendar days a report is filed late, and on the candidate's filing record. If you spent MCEA funds during the filing period, you could be subject to civil penalties, which are accruing on a daily basis. Once you have filed your report, our office will calculate the penalty using the enclosed penalty matrix, and will notify you of the amount of the penalty. **Therefore, we urge you to file your report as soon as possible.**

Sincerely,

Sandy Thompson
Candidate Registrar

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. David Hughes
34 Howe Street
Lewiston, ME 04240

COMPLETE THIS SECTION ON DELIVERY

A. Signature
☒ ☐ Agent
☐ Addressee

B. Received by (Printed Name) C. Date of Delivery
David Hughes 12/29/07

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number
(Transfer from service label)

7006

7006 2150 0003 4779 8692

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STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

November 13, 2007

Mr. David Hughes
34 Howe Street
Lewiston, ME 04240

Dear Mr. Hughes:

As a Maine Clean Election Act (MCEA) candidate in the November special elections, you are required to return all unspent MCEA funds and to file a final campaign finance report. These are the deadlines by which you will have to return funds and file your report:

No later than December 11, 2007, you are required to pay all debts and obligations and make all reimbursements, if any, to yourself and others working on your campaign.

No later than December 18, 2007, you are required file your 42-Day Post-Election report and to return the amount of unspent authorized MCEA funds, which can be found on line 8 of Schedule F of the report (Cash Authorized to Spend). When completing your 42-Day Post-Election report, please remember to include any expenditures that were previously reported in 24-Hour reports.

Please remember that MCEA candidates are required to keep all campaign financial records for two years from the date of the last report of the election. For the 2007 special election, records including receipts, invoices, bank statements, cancelled checks, etc. must be kept until 12/18/2009. In addition, please notify the Commission if your mailing address, telephone number, or e-mail address changes or if the contact information of your treasurer changes.

Please do not hesitate to contact me at 287-7651 if you have any questions. Thank you.

Sincerely,

Sandy Thompson
Candidate Registrar



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135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

October 23, 2007

Mr. David A. Hughes
34 Howe St.
Lewiston, ME 04240

Dear Mr. Hughes:

The Commission on Governmental Ethics and Election Practices has received and approved your request for certification as a Maine Clean Election Act candidate for Representative.

The Commission has authorized the State to make a payment of \$4,287.00 for the special election. This amount is based on \$4,362.00 for a contested race, less \$75.00 in unspent seed money. The payment will be made by check or electronic funds transfer (EFT), depending on whether you have requested EFT. You should receive the payment within two to four business days after receiving this letter. Please telephone the Commission if you do not receive the payment by then.

If you have any questions, please do not hesitate to contact the Commission staff at 287-4179. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paul Lavin".

Paul Lavin
Assistant Director

cc: Michael Carey